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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,759	07/31/2003	Richard G. Hyatt JR.	P56934	8457

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EXAMINER	
BARRETT, SUZANNE LALE DINO	
ART UNIT	PAPER NUMBER
3673	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/630,759	HYATT, RICHARD G.	
	Examiner	Art Unit	
	Suzanne Dino Barrett	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 August 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *6-8* is/are allowed.

6)☒ Claim(s) *9 and 10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 9,10 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 90 and 120 of copending Application No. 08/720,070. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

It is understood that these claims have been filed for the purposes of interference and are copied claims, however, claims 90 and 120, which correspond to the instant claims 9 and 10, are still pending in co-pending application 08/720,070, thus necessitating this rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, the instant specification fails to provide support for the "at least one electromechanical locking member" and "plurality of electromechanical locking members" set forth in claims 9 and 10, respectively. This rejection stands, since, firstly, the solenoid coils 109, are not disclosed "locking members" as argued by applicant. Secondly, the specification discloses that the "plurality" of locking members 106a, 107a,108a are used alternatively and not as a plurality within the same plug. See the specification on page 12, lines 11-14 which clearly recites the use of locking member 106a or 107a or 108a.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 9,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gokcebay 5,552,777 in view of Thordmark et al 5,542,274 and Naveda 4,416,127.

Gokcebay teaches all of the elements of the claimed invention including a cylinder 46, plug 24, elongate member (pin tumblers not shown-col.6, lines 61-62), orifice (housing contact/conductor 28 in Fig.3), radially oriented aperture (houses electrical operator 36 with spring biased 48 movable member 38), and electronic logic circuit (fig.2, col.5, line 56 to col.6, line 37). Gokcebay fails to teach a bar/detent which moves radially to the axis of the plug and the electronic operator having an electronic locking member which moves independently of the movement of the bar/detent which is reciprocated between a blocking and releasing position as a result of independent movement of the locking member. Thordmark et al teach a cylinder having an electronic operator 12, a movable electronic locking member 11 which alternately allows and blocks reciprocation of a spring biased sidebar 10 (col.5, lines 38-47). Thordmark et al teach the electrically actuated blocking element being mounted in the cylinder and not the plug. While Gokcebay recognizes the existence of electro-mechanical locks having the blocking tumbler mounted in the cylinder casing like Thordmark, it is the object of the Gokcebay invention to provide a system which is very easily retrofitted into lock systems having a single key operating a number of locks, and which avoids dealing with electronics, solenoids or other hardware which would take up space within the lock casing adjacent the lock (col.2, lines 49-55). Naveda reinforces that one having ordinary skill in the art of electro-mechanical or magneto-electric lock systems would have known of the versatility and interchangeability of known electronic elements usable in verifying and actuating electric lock cylinders including among others, miniature coils, miniature electromagnets, electronic memories bioelectric circuits, resistance plates and the like

(col.3, line 1-13 and col.4, lines 30-35). Furthermore, Naveda teaches that the electromagnet can be located in the receiver, or alternately, in the body of the key having any size or shape (col.4, line 60, col.9, lines 22-25). It would have been obvious to one of ordinary skill in the art to replace the simple blocking element of Gokcebay with the multi-part electrically actuated blocking element of Thordmark et al to thwart natural attempts to force system locks that are equipped with electronic blocking functions, of the kind meant by Thordmark (col. 1, lines 38-42), by making forcing of such locks more difficult. It would have further been an obvious reversal of parts and change of size to select miniature logic circuitry and a miniature solenoid and locking member 11 such that the blocking mechanism fits within a conventional sized lock plug as taught by Gokcebay and Naveda.

Allowable Subject Matter

7. Claims 6-8 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino Barrett whose telephone number is 571-272-7053. The examiner can normally be reached on M-Th 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Suzanne Dino Barrett
Primary Examiner
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